

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

EUCLIDES SOTO, LOUIS A. MARTINEZ,
JOSE RAMIREZ, CLEMENTE HERNANDEZ,
CESAR PIZARRO, ELISON PENA,
JUAN COLON, JOSE ORTIZ, RAFAEL TORRES,
ANGEL BAEZ, ANTONIO MARTINEZ,
WILFREDO ORTIZ, EULOGIO ORTIZ,
MIRRAIN MIRANDA, RAFAEL MORENO,
NELSON ACEVEDO, and
RAMON RODRIQUEZ,

Plaintiffs,

v.

SHERMAN-FEINBERG CORPORATION,
FARNSWORTH FIBRE CORPORATION,
UNITED STEELWORKERS OF AMERICA,
LOCAL 421-U, and UNITED STEELWORKERS
OF AMERICA,

Defendants.

Civil Action No.
04-10892-JLT

MOTION OF THE DEFENDANTS UNITED STEELWORKERS,
LOCAL 421-U AND UNITED STEELWORKERS
FOR SUMMARY JUDGMENT

The Defendants, United Steelworkers of America, Local 421-U and United Steelworkers of America (collectively, the Union) hereby move for Summary Judgment. These motions are supported by the attached Memorandum of Law, which includes the Union's Rule 56.1 Statement of Facts Not in Material Dispute.

The Plaintiffs have alleged that the Union violated the duty of fair representation and discriminated against them because of their national origin in violation of Title VII and Mass. Gen. Laws ch. 151B, § 4. However, nearly all of the allegations regarding the duty of fair representation are time-barred because they fall outside of the six-month statute of limitations, and those allegations that

survive the time-bar do not rise to the level of arbitrary, discriminatory, or bad-faith conduct required to find a violation. In the same way, nearly all of the discrimination allegations are time-barred as falling outside of the 300-day statute of limitations for filing with an administrative agency. Of those that are not time barred, most of the allegations are preempted by section 301 of the Labor Management Relations Act or under the doctrine of Garmon preemption. And any allegations that survive the time bar and preemption criteria necessarily fail for lack of evidence of discriminatory intent.

The Union is thus entitled to summary judgment in its favor on all counts.

WHEREFORE, the Defendants respectfully request that this Court:

1. Enter summary judgment in their favor, dismissing this case with prejudice; and
2. Enter any other relief which is just and proper.

Respectfully submitted,



Dated: July 20, 2005

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above Motion for Summary Judgment, together with the accompanying Memorandum in Support, was served on the attorneys of record for each party by hand delivery on July 20, 2005.

A handwritten signature in black ink, appearing to read 'Alfred Gordon', is written above a horizontal line.

Alfred Gordon